

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

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JAMES CLOWER,

Plaintiff,

v.

GEORGE PENNELL, *et al.*,

Defendants.

Case No. 2:04-CV-95

Hon. Richard Alan Enslen

**JUDGMENT**

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In accordance with an Opinion filed this day;

**IT IS HEREBY ORDERED** that Plaintiff James Clower's Objections (Dkt. No. 133) are **DENIED**, the Report and Recommendation (Dkt. No. 122) is **ADOPTED**, Defendants' Motion for Summary Judgment (Dkt. No. 61) is **GRANTED**, and Plaintiff's Complaint (Dkt. No. 1) and Amended Complaint (Dkt. No. 55) against all Defendants is **DISMISSED WITH PREJUDICE**.<sup>1</sup>

**IT IS FURTHER ORDERED** that Plaintiff's Motion to Strike the Defense of Failure to Exhaust (Dkt. No. 108) is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff's Motion to Continue (Dkt. No. 112) is **DENIED**.

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<sup>1</sup> The complete caption of this case also names some parties as "Doe," or some variation thereof. While Plaintiff can name unknown defendants in his Complaint and determine their true identity after discovery, *Berndt v. State of Tennessee*, 796 F.2d 879, 882 (6th Cir. 1986), Plaintiff's opportunity to learn their identity ends when discovery closes. *Estate of Rosenberg by Rosenberg v. Crandell*, 56 F.3d 35, 37 (8th Cir. 1995). Because this case is terminated as to the named parties and Plaintiff has failed to identify the unknown parties, the Court will dismiss all claims against unknown parties.

**IT IS FURTHER ORDERED** that the Court certifies that an appeal of the Judgment would not be taken in good faith. *See McGore v. Wigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997).

DATED in Kalamazoo, MI:  
September 23, 2005

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE